

STATE OF WISCONSIN Division of Hearings and Appeals

In the Matter of	
	DECISION

PRELIMINARY RECITALS

Pursuant to a petition filed October 21, 2015, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Portage County Department of Human Services in regard to Child Care, a hearing was held on November 11, 2015, at Stevens Point, Wisconsin.

The issue for determination is whether the Petitioner is eligible for backdated child care benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Children and Families 201 East Washington Avenue, Room G200 Madison, Wisconsin 53703

By:

Portage County Department of Human Services 817 Whiting Avenue Stevens Point, WI 54481-5292

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically) Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES #) is a resident of Portage County.
- 2. On May 22, 2015, the agency conducted a phone interview for renewal with the Petitioner.
- 3. On May 26, 2015, the agency issued a Notice of Action and Proof Needed to the Petitioner indicating that she was required to sign her application as well as provide additional verification

of employment. The due date for the requested action and information was June 3, 2015. Exhibit R-6.

- 4. The respondent closed petitioner's Child Care benefits effective June 1, 2015, via notice dated June 4, 2015. Exhibit R-9.
- 5. On June 9, 2015, the signature page was received. On August 31, 2015, petitioner's paystubs were received. See, Exhibits R-7 and R-12.
- 6. On October 6, 2015, petitioner reapplied for Child Care benefits. Following receipt of updated employment verification, petitioner was approved for Child Care benefits effective October 1, 2015.
- 7. On October 21, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

As a first point, petitioner appealed refusals to backdate FS and child care. The FS issue will be discussed in a separate decision.

Wis. Stat § 49.155 authorizes the department to operate a child care subsidy program for Wisconsin Works (W-2) recipients and working parents. See also, W-2 Manual, 15.2.0. The department has a Child Care Manual (Manual) that provides the specific policies for the program. The Manual may be viewed on line at http://dcf.wisconsin.gov/childcare/wishares/manual.htm.

The child care subsidy program's authorizing statute contains financial and nonfinancial eligibility criteria. If applicant parents do not meet the nonfinancial and financial eligibility criteria, then benefits cannot be granted.

The agency declined to open the Petitioner's child care benefits before October 1, 2015, because CC eligibility can only go back to the first of month, in the month in which eligibility is determined. The pertinent Manual language reads as follows:

At initial eligibility, an authorization may be backdated only to the first of the month of the current eligibility period, or to the Sunday that is six days prior to the first of the eligibility month. Manual, § 3.6.28.

In this case, the Petitioner's eligibility was determined once the application was complete. This occurred when the Petitioner's employment verification was approved on October 16, 2015. Thus, in accordance with the policy, the agency found the Petitioner to be eligible as of October 1, 2015.

The Petitioner testified that she was unaware that her employer had not supplied the employment verification previously, and did not learn of the termination of her Child Care benefits until October of 2015. The respondent countered that it notified petitioner in writing of the termination, and that the petitioner had not contacted the respondent to report difficulty in obtaining the verification.

I recognize the difficulties in navigating the paperwork maze that is part of the process for child care benefits. However, neither the agency nor I have equitable authority to provide benefits contrary to the applicable policy. In this case, the policy only allows backdating to the first month of the eligibility period. The Petitioner received a notice in May, 2015 that she needed to sign the application to complete it by June 4, 2015. The signature page was not submitted until June 9, 2012. Similarly, employment verification was not timely submitted. Verification is the responsibility of the petitioner. Therefore, I must conclude that the agency properly denied the Petitioner's request to backdate child care benefits for June 1, 2015 – September 30, 2015.

CONCLUSIONS OF LAW

The Petitioner is not eligible for backdated child care benefits for the period of June 1, 2015 – September 30, 2015.

THEREFORE, it is

ORDERED

That the petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received** within 20 days after the date of this decision. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison, Wisconsin, this 15th day of December, 2015

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator Suite 201 5005 University Avenue Madison, WI 53705-5400 Telephone: (608) 266-3096 FAX: (608) 264-9885 email: DHAmail@wisconsin.gov Internet: http://dha.state.wi.us

The preceding decision was sent to the following parties on December 15, 2015.

Portage County Department of Human Services Child Care Benefits